

**STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES**

**BILL OF SALE AND CONTRACT FOR
FOREST PRODUCTS**

Export Restricted Lump Sum AGREEMENT NO. 30-078598

SALE NAME: BULL GOOSE

**THE STATE OF WASHINGTON DEPARTMENT OF NATURAL
RESOURCES, HEREINAFTER ACTING SOLELY, IN ITS PROPRIETARY
CAPACITY, STATE, AND PURCHASER, AGREE AS FOLLOWS:**

Section G: General Terms

G-010 Products Sold and Sale Area

Purchaser was the successful bidder on November 14, 2006 and the sale was confirmed on _____. The State, as owner, agrees to sell to Purchaser, and Purchaser agrees to purchase, cut, and remove the following forest products: All Douglas fir and western larch less than 28 inches in diameter at breast height and all green western red cedar, lodgepole pine, and Engelmann spruce not banded with orange or blue paint bounded by white timber sale boundary tags, red ribbon, or blue ribbon in Units #1, #2, #4, and #5; and all Douglas fir and western larch less than 28 inches in diameter at breast height and all green western red cedar, lodgepole pine, and Engelmann spruce not banded with orange paint bounded by white timber sale boundary tags and red ribbon in Unit #3, located on approximately 92 acres on part(s) of Sections 14, and 22 all in Township 40 North, Range 33 East W.M. in Ferry County(s) as shown on the attached timber sale map and as designated on the sale area. Timber purchased under a contract that is designated as export restricted shall not be exported until processed. Timber purchased under a contract that is designated as exportable may be exported prior to processing.

G-020 Inspection By Purchaser

Purchaser hereby warrants to the State that they have had an opportunity to fully inspect the sale area and the forest products being sold. Purchaser further warrants to the State that they enter this contract based solely upon their own judgment of the value of the forest products, formed after their own examination and inspection of both the timber sale area and the forest products being sold. Purchaser also warrants to the State that they enter this contract without any reliance upon the volume estimates, acreage estimates, appraisals, pre-bid documentation, or any other representations by the State Department of Natural Resources.

G-031 Contract Term

Purchaser shall complete all work required by this contract prior to November 30, 2007.

G-040 Contract Term Adjustment - No Payment

Purchaser may request an adjustment in the contract term. A claim must be submitted in writing and received by the State within 30 days after the start of interruption or delay. The claim must also indicate the actual or anticipated length of interruption or

delay. The State may grant an adjustment without charge only if the cause for contract term adjustment is beyond Purchaser's control. The cause must be one of the following and the adjustment may be granted only if operations or planned operations under this contract are actually interrupted or delayed:

- a. Road and bridge failures which deny access.
- b. Access road closures imposed by road owner.
- c. Excessive suspensions as provided in clause G-220.
- d. Regulatory actions not arising from Purchaser's failure to comply with this contract which will prevent timber harvest for a period less than 6 months.

G-051 Contract Term Extension - Payment

Extensions of this contract term may be granted only if, in the judgment of the State, Purchaser is acting in good faith and is endeavoring to remove the forest products conveyed. The term of this contract may be extended for a reasonable time by the State if all of the following conditions are satisfied:

- a. A written request for extension of the contract term must be received prior to the expiration date of the contract.
- b. Completion of all required roads and compliance with all contract and regulatory requirements.
- c. For the first extension, not to exceed 1 year, payment of at least 25 percent of the total contract price.

For the second extension, not to exceed 1 year, payment of at least 90 percent of the total contract price.

The payments shall not include the initial deposit which shall be held according to the provisions of RCW 79.15.100.

- d. Payment of an amount based on 12 percent interest per annum on the unpaid portion of the total contract price.

All payments, except the initial deposit, will be deducted from the total contract price to determine the unpaid portion of the contract.

- e. Payment of \$232.21 per acre per annum for the acres on which an operating release has not been issued.
- f. In no event will the extension charge be less than \$200.00.
- g. Extension payments are non-refundable.

G-053 Surveys - Sensitive, Threatened, Endangered Species

Whenever the State determines that a survey for sensitive, threatened, or endangered species is prudent, or when Purchaser determines a survey is prudent and the State agrees, Purchaser shall perform such surveys at Purchaser's expense and to the standards required by the State. The survey information shall be supplied to the State.

G-060 Exclusion of Warranties

The PARTIES AGREE that the IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE and ALL OTHER WARRANTIES EXPRESSED OR IMPLIED ARE EXCLUDED from this transaction and shall not apply to the goods sold. For example, THE FOLLOWING SPECIFIC MATTERS ARE NOT WARRANTED, and are EXCLUDED from this transaction:

- a. The MERCHANTABILITY of the forest products. The use of the term "merchantable" in any document is not intended to vary the foregoing.
- b. The CONDITION of the forest products. The forest products will be conveyed "AS IS."

- c. The ACREAGE contained within any sale area. Any acreage descriptions appearing in the timber notice of sale, timber sale contract, or other documents are estimates only, provided solely for administrative and identification purposes.
- d. The VOLUME, QUALITY, OR GRADE of the forest products. The State neither warrants nor limits the amount of timber to be harvested. The descriptions of the forest products to be conveyed are estimates only, made solely for administrative and identification purposes.
- e. The CORRECTNESS OF ANY SOIL OR SURFACE CONDITIONS, PRE-SALE CONSTRUCTION APPRAISALS, INVESTIGATIONS, AND ALL OTHER PRE-BID DOCUMENTS PREPARED BY OR FOR THE STATE. These documents have been prepared for the State's appraisal purposes only.
- f. THAT THE SALE AREA IS FREE FROM THREATENED OR ENDANGERED SPECIES or their habitat. The State is not responsible for any interference with forestry operations that result from the presence of any threatened or endangered species, or the presence of their habitat, within the sale area.
- g. THAT THE FORESTRY OPERATIONS to be performed under this contract WILL BE FREE FROM REGULATORY ACTIONS by governmental agencies. The State is not responsible for actions to enforce regulatory laws, such as the Washington Forest Practices Act (chapter 76.09 RCW), taken by the Department of Natural Resources or any other agency that may affect the operability of this timber sale.
- h. Items contained in any other documents prepared for or by the State.

G-064 Permits

Purchaser is responsible for obtaining any permits not already obtained by the State that relate to Purchaser's operation. Forest Practice Application and Hydraulic Project Approval permits obtained by the State shall be transferred to Purchaser. Purchaser is responsible for all permits, amendments and renewals.

G-065 Regulatory Disclaimer

The State disclaims any responsibility for, or liability relating to, regulatory actions by any government agency, including actions pursuant to the Forest Practices Act, Ch. 76.09 RCW that may affect the operability of the timber sale.

G-066 Governmental Regulatory Actions

a. Regulatory Risk

Except as provided in this clause, Purchaser assumes all risks associated with governmental regulatory actions, including actions taken pursuant to the Forest Practices Act, Ch. 76.09 RCW, and the Endangered Species Act, 16 U.S.C. 1531-1544 and any Habitat Conservation Plan between the Department of Natural Resources and the U.S. Fish and Wildlife Service or any other agency now in place and as may be amended, or hereafter created, that may affect the operability of the timber sale.

b. Increased Costs

Purchaser shall be responsible for any increased operational costs arising from any applicable foreign or domestic governmental regulation or order that does not cause contract performance to become commercially impracticable or that does not substantially frustrate the purpose of the contract. If impracticability or frustration results from Purchaser's failure to comply with this contract, Purchaser shall remain responsible for payment of the total contract price notwithstanding the impracticability or frustration.

c. Sale Area

When portions of the sale area become subject to a foreign or domestic governmental regulation or order that will likely prevent timber harvest for a period that will exceed six months and Purchaser has complied with this contract, the following shall apply:

- i. If 40 percent or less of the sale area is affected by the governmental regulation or order, the State, at Purchaser's request, shall adjust the total contract price as set forth in paragraph (d) below.
- ii. If 41 percent to 74 percent of the sale area is affected by the governmental regulation or order, the State, at Purchaser's request, shall adjust the total contract price as set forth in paragraph (d) below or terminate the contract. Termination will discharge any unexecuted portion of the contract.
- iii. If 75 percent or more of the sale area is affected by the governmental regulation or order, the State reserves the right to unilaterally terminate the contract and thereby discharge any unexecuted portion thereof. If the State does not exercise this right, the State, at Purchaser's request, shall adjust the total contract price as set forth in paragraph (d) below.

d. Adjustment of Price

When required by clause G-066 (c), the State shall adjust the total contract price by subtracting from the total contract price an amount determined in the following manner: The State shall cause the timber sale area subject to governmental regulation or order to be surveyed. The State shall calculate the percentage of the total sale area subject to the governmental regulation or order. The State shall reduce the total contract price by that calculated percentage, notwithstanding potential variations in species, value, costs, or other items over the total sale area. The State will further reduce the total contract price by the reasonable cost of unamortized roads Purchaser was required to construct but was unable to use for removing timber. A reduction in total contract price terminates all of the Purchaser's rights to and interest in the timber on the affected sale area.

G-070 Limitation on Damage

In the event of a breach of any provision of this contract by the State, the exclusive remedy available to Purchaser will be limited to a return of the initial deposit, unapplied payments, and credit for unamortized improvements made by Purchaser. The State shall not be liable for any damages, whether direct, incidental or consequential.

G-080 Scope of State Advice

No advice by any agent, employee, or representative of the State regarding the method or manner of performing shall constitute a representation or warranty that said method, manner or result thereof will conform to the contract or be suitable for Purchaser's purposes under the contract. Purchaser's reliance on any State advice regarding the method or manner of performance shall not relieve Purchaser of any risk or obligation under the contract. Purchaser retains the final responsibility for its operations under this contract and State shall not be liable for any injuries resulting from Purchaser's reliance on any State advice regarding the method or manner of performance.

G-091 Sale Area Adjustment

The Parties may agree to adjustments in the sale area boundary. The cumulative changes to the sale area during the term of the contract shall not exceed more than four percent of the original sale area. If the sale area is increased, the added forest products become a part of this contract. The State shall determine the volume added and shall calculate the increase to the total contract price using the rates set forth in clause G-101, G-102, or G-103. If the sale area is reduced, the State shall determine the volume to be

reduced. The State shall calculate the reduction to the total contract price using the rates set forth in clause G-101, G-102, or G-103.

G-102 Forest Products Not Designated

Any forest products not designated for removal, which must be removed in the course of operations authorized by the State, shall be approved and designated by the Contract Administrator. Added forest products shall become a part of this contract and the Scribner log scale volume, as defined by the National Forest Log Scaling Handbook, shall be determined by the Contract Administrator. Added forest products shall be paid for at the following contract payment rates per MBF Scribner log scale.

The pricing schedule has not been set for the sale.

G-106 Adding Naturally Damaged Forest Products

Any forest products not designated for removal that are seriously damaged by disease, insects or wind, or that may contribute seriously to the spread of insect or disease damage may be added to this sale by the State's Contract Administrator. Additions must be in unlogged areas of the sale and added volume shall not exceed an amount equal to 10 percent of the original advertised volume. Added forest products become a part of this contract and shall be paid for at the rate set forth in clause G-101, G-102 or G-103.

G-110 Title and Risk of Loss

Title to the forest products conveyed passes at confirmation of the sale. Purchaser bears the risk of loss of or damage to and has an insurable interest in the forest products in this contract from the time of confirmation of the sale of forest products. In the event of loss of or damage to the forest products after passage of title, whether the cause is foreseeable or unforeseeable, the forest products shall be paid for by Purchaser. Breach of this contract shall have no effect on this provision. Title to the forest products not removed from the sale area within the period specified in this contract shall revert to the State as provided in RCW 79.15.100.

G-120 Responsibility for Work

All work, equipment, and materials necessary to perform this contract shall be the responsibility of Purchaser. Any damage to improvements, except as provided in clause G-130 or unless the State issues an operating release pursuant to clause G-280, shall be repaired promptly to the satisfaction of the State and at Purchaser's expense.

G-130 Exceptions

Exceptions to Purchaser's responsibility in clause G-120 shall be limited exclusively to the following. These exceptions shall not apply where damages occur due to Purchaser's failure to take reasonable precautions or to exercise sound forest engineering and construction practices.

- a. The State shall bear the cost to repair any existing roadway or section of required road completed to the point that an authorization to haul has been issued where such damage was not caused by Purchaser, its employees, agents, or invitees, including independent contractors. Purchaser shall accomplish repairs promptly as required by the State at an agreed price. The State may elect to accomplish repairs by means of State provided resources. This subclause (subclause "a") may only apply if subclause "b" is not in effect.
- b. The parties shall share equally the cost to repair any part of the required roads constructed under this contract which suffer catastrophic damage, except that Purchaser shall be solely responsible for the first \$5,000.00. Catastrophic damage is defined as State identified damage valued in excess of \$5,000.00, resulting from a single event caused by forces beyond the control and without the negligence of Purchaser, such as earthquakes, volcanic eruptions, landslides, and floods. Purchaser shall accomplish repairs promptly as required by the State at an agreed price. The State may elect to accomplish repairs by means of State provided resources; in which event, Purchaser shall continue to share equally in the cost.

Nothing contained in clauses G-120 and G-130 shall be construed as relieving Purchaser of responsibility for, or damage resulting from, Purchaser's operations or negligence, nor shall Purchaser be relieved from full responsibility for making good any defective work or materials.

G-140 Indemnity

To the fullest extent permitted by law, Purchaser shall indemnify, defend and hold harmless State, agencies of State and all officials, agents and employees of State, from and against all claims arising out of or resulting from the performance of the contract. "Claim" as used in this contract means any financial loss, claim, suit, action, damage, or expense, including but not limited to attorneys' fees, attributable for bodily injury, sickness, disease or death, or injury to or destruction of tangible property including loss of use resulting therefrom. Purchasers' obligations to indemnify, defend, and hold harmless includes any claim by Purchasers' agents, employees, representatives, or any subcontractor or its employees. Purchaser expressly agrees to indemnify, defend, and hold harmless State for any claim arising out of or incident to Purchasers' or any subcontractors' performance or failure to perform the contract. Purchasers' obligation to indemnify, defend, and hold harmless State shall not be eliminated or reduced by any actual or alleged concurrent negligence of State or its agents, agencies, employees and officials. Purchaser waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend and hold harmless State and its agencies, officials, agents or employees.

G-150 Insurance

Purchaser and/or contractor(s) shall, at its cost and expense, buy and maintain insurance of the types and amounts listed below. Failure to buy and maintain the required insurance may result in a breach and/or termination of the contract at State's option. State may suspend Purchaser operations until required insurance has been secured.

All insurance and surety bonds should be issued by companies admitted to do business within the State of Washington and have a rating of A-, Class VII or better in the most recently published edition of Best's Reports. Any exception shall be reviewed and approved by the department's risk manager before the insurance coverage is accepted. If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policies must comply with Chapter 48.15 RCW and 284-15 WAC.

The State of Washington, Department of Natural Resources region office of sale origin shall be provided written notice before cancellation or non-renewal of any insurance referred to therein, in accord with the following specifications:

1. Insurers subject to Chapter 48.18 RCW (admitted and regulated by the Insurance Commissioner): The insurer shall give the State 45 days advance notice of cancellation or non-renewal. If cancellation is due to non-payment of premium, the State shall be given 10 days advance notice of cancellation.
2. Insurers subject to Chapter 48.15 RCW (surplus lines): The State shall be given 20 days advance notice of cancellation. If cancellation is due to non-payment of premium, the State shall be given 10 days advance notice of cancellation.

Before starting work, Purchaser shall furnish State of Washington, Department of Natural Resources with a certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements specified in the contract. Insurance coverage shall be obtained by the purchaser and/or contractor(s) prior to operations commencing and continually maintained in full force until all contract obligations have been satisfied or an operating release has been signed by the State.

Purchaser shall include all subcontractors as insured under all required insurance policies, or shall furnish separate certificates of insurance and endorsements for each subcontractor. Subcontractor(s) must comply fully with all insurance requirements

stated herein. Failure of subcontractor(s) to comply with insurance requirements does not limit Purchaser's liability or responsibility.

The State of Washington, Department of Natural Resources, its elected and appointed officials, agents and employees shall be named as an additional insured on all general liability, excess, umbrella, and property insurance policies.

All insurance provided in compliance with this contract shall be primary as to any other insurance or self-insurance programs afforded to or maintained by State. Purchaser waives all rights against State for recovery of damages to the extent these damages are covered by general liability or umbrella insurance maintained pursuant to this contract.

If Purchaser is self-insured, evidence of its status as a self-insured entity shall be provided to State. If requested by State, Purchaser must describe its financial condition and the self-insured funding mechanism.

By requiring insurance herein, State does not represent that coverage and limits will be adequate to protect Purchaser and such coverage and limits shall not limit Purchaser's liability under the indemnities and reimbursements granted to State in this contract.

The limits of insurance, which may be increased as deemed necessary by State of Washington, Department of Natural Resources, shall not be less than as follows:

Commercial General Liability (CGL) Insurance. Purchaser shall maintain general liability (CGL) insurance, and, if necessary, commercial umbrella insurance with a limit of not less than \$1,000,000.00 per each occurrence. If such CGL insurance contains aggregate limits, the General Aggregate limit shall be at least twice the "each occurrence" limit. CGL insurance shall have products-completed operations aggregate limit of at least two times the "each occurrence" limit.

CGL insurance shall be written on Insurance Services Office (ISO) occurrence form CG 00 01 (or a substitute form providing equivalent coverage). All insurance shall cover liability arising out of premises, operations, independent contractors, products completed operations, personal injury and advertising injury, and liability assumed under an insured contract (including the tort liability of another party assumed in a business contract), and contain separation of insured (cross liability) condition.

Employer's Liability "Stop Gap" Insurance. Purchaser shall buy employers liability insurance, and, if necessary, commercial umbrella liability insurance with limits not less than \$1,000,000.00 each accident for bodily injury by accident or \$1,000,000.00 each employee for bodily injury by disease.

Workers' Compensation Coverage. Purchaser shall comply with all State of Washington workers' compensation statutes and regulations. Workers' compensation coverage shall be provided for all employees of Purchaser and employees of any subcontractor or sub-subcontractor. Coverage shall include bodily injury (including death) by accident or disease, which exists out of or in connection with the performance of this contract. Except as prohibited by law, Purchaser waives all rights of subrogation against State for recovery of damages to the extent they are covered by workers' compensation, employer's liability, commercial general liability, or commercial umbrella liability insurance.

If Purchaser, contractor, subcontractor or sub-subcontractor fails to comply with all State of Washington workers' compensation statutes and regulations and State incurs fines or is required by law to provide benefits to or obtain coverage for such employees, Purchaser shall indemnify State. Indemnity shall include all fines, payment of benefits to Purchaser or contractor(s) or subcontractor employees, or their heirs or legal representatives, and the cost of effecting coverage on behalf of such employees.

Business Auto Policy (BAP). Purchaser shall maintain business auto liability and, if necessary, commercial umbrella liability insurance with a limit not less than \$1,000,000.00 per accident. Such insurance shall cover liability arising out of "Any

Auto". Business auto coverage shall be written on ISO form CA 00 01, or substitute liability form providing equivalent coverage. If necessary the policy shall be endorsed to provide contractual liability coverage and cover a "covered pollution cost or expense" as provided in the 1990 or later editions of CA 00 01. Purchaser waives all rights against State for the recovery of damages to the extent they are covered by business auto liability or commercial umbrella liability insurance.

G-160 Agents

The State's rights and duties will be exercised by the Region Manager at Colville, Washington. The Region Manager will notify Purchaser in writing who is responsible for administering the contract. The Region Manager has sole authority to waive, modify, or amend the terms of this contract in the manner prescribed in clause G-180. No agent, employee, or representative of the State has any authority to bind the State to any affirmation, representation, or warranty concerning the forest products conveyed beyond the terms of this contract.

Purchaser is required to have a person on site during all operations who is authorized to receive instructions and notices from the State. Purchaser shall inform the State in writing who is authorized to receive instructions and notices from the State, and any limits to this person's authority.

G-170 Assignment and Delegation

No rights or interest in this contract shall be assigned by Purchaser without prior written permission of the State. Any attempted assignment shall be void and ineffective for all purposes unless made in conformity with this paragraph. Purchaser may perform any duty through a delegate, but Purchaser is not thereby relieved of any duty to perform or any liability. Any assignee or delegate shall be bound by the terms of the contract in the same manner as Purchaser.

G-180 Modifications

Waivers, modifications, or amendments of the terms of this contract must be in writing signed by Purchaser and the State.

G-190 Contract Complete

This contract is the final expression of the Parties' agreement. There are no understandings, agreements, or representations, expressed or implied, which are not specified in this contract.

G-200 Notice

Notices required to be given under the following clauses shall be in writing and shall be delivered to Purchaser's authorized agent or sent by certified mail to Purchaser's post office address:

G-210 Violation of Contract

G-220 State Suspends Operations

All other notices required to be given under this contract shall be in writing and delivered to the authorized agent or mailed to the Party's post office address. Purchaser agrees to notify the State of any change of address.

G-210 Violation of Contract

- a. If Purchaser violates any provision of this contract, the Contract Administrator, by written notice, may suspend those operations in violation. If the violation is capable of being remedied, Purchaser has 30 days after receipt of a suspension notice to remedy the violation. If the violation cannot be remedied (such as a violation of WAC 240-15-015) or Purchaser fails to remedy the violation within 30 days after receipt of a suspension notice, the State may terminate the rights of Purchaser under this contract and collect damages.
- b. If the contract expires pursuant to clause G-030 or G-031 without Purchaser having performed all its duties under this contract, Purchaser's right to operate

is terminated and Purchaser shall not have the right to remedy the breach. This provision shall not relieve Purchaser of any payment obligations.

- c. The State has the right to remedy the breach in the absence of any indicated attempt by Purchaser or if Purchaser is unable, as determined by the State, to remedy the breach. Any expense incurred by the State shall be charged to Purchaser and shall be paid within 30 days of receipt of billing.
- d. If Purchaser's violation is a result of a failure to make a payment when due, in addition to a. and b. above, interest shall accrue on the unpaid balance at 12 percent per annum, beginning the date payment was due.

G-220 State Suspends Operation

The Contract Administrator may suspend any operation of Purchaser under this contract when the State is suffering, or there is a reasonable expectation the State will suffer environmental, monetary, or other damage if the operation is allowed to continue.

Purchaser shall be in breach of this contract if the operation continues after the suspension notice or if the operation resumes without prior approval and notice from the Contract Administrator.

Purchaser may request a modification of a suspension within 30 days of the start of suspension through the dispute resolution process in clause G-240. If this process results in a finding that the suspension exceeded the time reasonably necessary to stop or prevent damage to the State, Purchaser is entitled to request a contract term adjustment under clause G-040.

If it reasonably appears that the damage that the State is suffering, or can reasonably be expected to suffer if the operation is allowed to continue, will prevent harvest for a period that will exceed 6 months, and Purchaser has complied with this contract, the provisions of clause G-066 shall govern just as if the harvest was prevented by an applicable foreign or domestic governmental regulation or order.

G-230 Unauthorized Activity

Any cutting, removal, or damage of forest products by Purchaser, its employees, agents, or invitees, including independent contractors, in a manner inconsistent with the terms of this contract or State law, is unauthorized. Such activity may subject Purchaser to liability for triple the value of said forest products under RCW 79.02.320 or RCW 79.02.300 and may result in prosecution under RCW 79.02.330 or other applicable statutes.

G-240 Dispute Resolution

The following procedures apply in the event of a dispute regarding interpretation or administration of this contract and the parties agree that these procedures must be followed before a lawsuit can be initiated.

- a. In the event of a dispute, Purchaser must make a written request to the Region Manager for resolution prior to seeking other relief.
- b. The Region Manager will issue a written decision on Purchaser's request within ten business days.
- c. Within ten business days of receipt of the Region Manager's decision, Purchaser may make a written request for resolution to the Lands Steward of the Department of Natural Resources.
- d. Unless otherwise agreed, a conference will be held by the Department Lands Steward within 30 calendar days of the receipt of Purchaser's request for review of the Region Manager's written decision. Purchaser and the Region Manager will have an opportunity to present their positions. The Department Lands Steward will issue a decision within a reasonable time of being presented with both Parties' positions.

G-250 Compliance with All Laws

Purchaser shall comply with all applicable statutes, regulations and laws, including, but not limited to, the applicable requirements of WAC 240-15-015 (relating to prohibitions on export and substitution), WAC 240-15-025 (relating to reporting requirements), and WAC 240-15-030 (relating to enforcement).

G-260 Venue

This contract shall be governed by the laws of the State of Washington. In the event of a lawsuit involving this contract, venue shall be proper only in Thurston County Superior Court.

G-270 Equipment Left on State Land

All equipment owned or in the possession of Purchaser, its employees, agents, or invitees, including independent contractors, shall be removed from the sale area and other State land by the termination date of this contract. Equipment remaining unclaimed on State land 60 days after the expiration of the contract period is subject to disposition as provided by law. Purchaser shall pay to the State all costs of moving, storing, and disposing of such equipment. The State shall not be responsible for any damages to or loss of the equipment or damage caused by the moving, storing or disposal of the equipment.

G-280 Operating Release

An operating release is a written document, signed by the State and Purchaser, indicating that Purchaser has been relieved of certain rights or responsibilities with regard to the entire or a portion of the timber sales contract. Purchaser and State may agree to an operating release for this sale, or portion of this sale, prior to the contract expiration, when all contract requirements pertaining to the release area have been satisfactorily completed. Upon issuance of a release, Purchaser's right to cut and remove forest products on the released area will terminate.

G-310 Road Use Authorization

Purchaser is authorized to use the following State roads and roads for which the State has acquired easements and road use permits; the E403312E, E403314E, E403314K, E403314N, E403315F, E403322H, E403322J, E403322M, E403322N, E403322O, USFS 2113, and USFS 2113-007 roads. The State may authorize in writing the use of other roads subject to fees, restrictions, and prior rights.

G-320 Erosion Control

Purchaser shall deliver 350 pounds of grass seed to a location designated by the Contract Administrator. Seed provided shall meet the following specifications.

20% Blue Bunch Wheat Grass
30% Columbia Needle Grass
20 % Sherman Big Bluegrass
30% Idaho Fescue

Grass seed shall be certified noxious weed free and delivered to the Highlands Fire Camp in 50 pound bags with the timber sale name on each bag.

G-330 Pre-work Conference

Purchaser shall arrange with the Contract Administrator to review this contract and to examine the sale area before beginning any operations. A plan of operations shall be developed and agreed upon by the Contract Administrator and Purchaser before beginning any operations. To the extent that the plan of operations is inconsistent with the contract, the terms of the contract shall prevail. State's acceptance and approval of Purchaser's plan of operations shall not be construed as any statement or warranty that the plan of operations is adequate for Purchaser's purposes or complies with applicable laws.

G-340 Preservation of Markers

Any legal land subdivision survey corners and witness objects are to be preserved. If such are destroyed or disturbed, Purchaser shall have a licensed land surveyor re-establish them.

G-350 Permanent Plots

There are permanent plot(s) located within the sale area. The aluminum tags at the base of the trees within the plot(s) shall not be removed or destroyed.

G-360 Road Use Reservation

The State shall have the right to use, without charge, all existing roads and any road constructed or reconstructed on State lands by Purchaser under this contract. The State may extend such rights to others. If the State grants such rights to others, the State shall require performance or payment, as directed by the State, for their proportionate share of maintenance based on their use.

G-370 Blocking Roads

Purchaser shall not block the Vulcan Mountain or Big Goosmus Creek county roads unless authority is granted in writing by the Contract Administrator.

G-380 Road Easement and Road Use Permit Requirements

Purchaser agrees to comply with the terms and conditions of the attached:

Easement No. 1275 with the U.S. Forest Service dated May 16, 1986

Easement No. 346 with John and Mourine Brenner dated January 23, 1967

Road Use Permit No. FSM 7770 with the U.S. Forest Service dated June 23, 2003 with extension dated May 1, 2006

G-430 Open Fires

Purchaser shall not set, or allow to be set by Purchaser's employees, agents, invitees and independent contractors, any open fire at any time of the year without first obtaining permission, in writing, from the Contract Administrator.

G-450 Encumbrances

This contract and Purchaser's activities are subject to the following:

Subject to Department of Natural Resources Surface Water Rights No. 78-004760, granted June 18, 1974, for an indefinite term.

Subject to the rights of the holder of Grazing Lease No. 10-072294, expiring on February 28, 2015.

Subject to easement for a Right of Way Road, heretofore granted under Application No. 50-047891 and 50-028366, for an indefinite term.

Subject to the rights of the holder of Grazing Lease No. 10-059295, expiring on June 30, 2009.

Section P: Payments and Securities**P-010 Initial Deposit**

Purchaser paid DATA MISSING initial deposit, which will be maintained pursuant to RCW 79.15.100. If the Purchaser fails to complete all contractual obligations before the contract term expires, the initial deposit will be immediately forfeited to the State.

P-020 Payment for Forest Products

Purchaser agrees to pay the total contract price of \$19,556.00. The total contract price consists of a \$0.00 contract bid price plus \$19,556.00 in fees. Fees collected shall be retained by the state unless the contract is adjusted via the G-066 clause.

P-040 Guarantee of Payment

Purchaser will pay for forest products prior to cutting or will guarantee payment by posting an approved payment security. The amount of cash or payment security shall be determined by the State and shall equal or exceed the value of the cutting proposed by Purchaser.

P-050 Billing Procedure

The State will compute and forward to Purchaser statements of charges provided for in the contract. Purchaser shall deliver payment to the State on or before the date shown on the billing statement.

P-080 Payment Account Refund

Advance payments made under P-040 remaining on account above the value for the charges shall be returned to Purchaser within 30 days following the final report of charges. Refunds not made within the 30 day period will accrue interest at the interest rate, as established by WAC 332-100-030, computed on a daily basis until paid.

P-090 Performance Security

Purchaser agrees to furnish, within 30 days of the confirmation date, security acceptable to the State in the amount of \$0.00. The Security provided shall guarantee performance of all provisions of this contract and payment of any damages caused by operations under this contract or resulting from Purchaser's noncompliance with any rule or law. Acceptable performance security may be in the form of a performance bond, irrevocable letter of credit, cash or savings account assignments, and must name the State as the obligee or beneficiary. A letter of credit must comply with Title 62A RCW, Article 5. Performance security must remain in full force over the duration of the contract length. Surety bonds issued shall conform to the issuance and rating requirements in clause G-150. The State shall retain the performance security pursuant to RCW 79.15.100. Purchaser shall not operate unless the performance security has been accepted by the State. If at any time the State decides that the security document or amount has become unsatisfactory, Purchaser agrees to suspend operations and, within 30 days of notification, to replace the security with one acceptable to the State or to supplement the amount of the existing security.

P-100 Performance Security Reduction

The State may reduce the performance security after an operating release has been issued if the State determines that adequate security exists for any remaining obligations of Purchaser.

Section H: Harvesting Operations

H-010 Cutting and Yarding Schedule

Falling and Yarding will not be permitted from February 1 to June 1 in all units unless authorized in writing by the Contract Administrator.

H-012 Leave Tree Damage Definition

Leave tree damage exists when one or more of the following criteria are satisfied as a result of Purchaser's operation:

- a. A leave tree has one or more scars on its trunk exposing the cambium layer, which in total exceeds 20 square inches.
- b. A leave tree top is broken or the live crown ratio is reduced below 30 percent.
- c. A leave tree has more than 1/3 of the circumference of its root system injured such that the cambium layer is exposed.

Excessive damage is established when more than 5 percent of the leave trees are damaged in a unit (see clause D-040 or D-041). The damaged trees will be identified by the Contract Administrator.

H-013 Skid Trail Requirements

A skid trail is defined as an area that is used for more than three passes by any equipment.

Purchaser shall comply with the following during the yarding operation:

- a. Skid trails will not exceed 15 feet in width, including rub trees.

- b. Skid trails shall not cover more than 15 percent of the total acreage on one unit.
- c. Skid trail location will be pre-approved by the Contract Administrator.
- d. Trees within skid trails shall be felled and yarded prior to the felling of adjacent timber.
- e. Excessive skid trail damage is not permitted. Skid trail damage is considered excessive when more than 15 percent of the active trail has ruts over 6 inches in depth.
- f. Skid trails will be water barred at the time of completion of yarding, if required by the Contract Administrator.
- g. Rub trees along the skid trail shall be left standing until all timber tributary to the skid trail has been removed.

Purchaser shall not deviate from the requirements set forth in this clause without prior written approval from the Contract Administrator.

H-035 Fall Trees Into Sale Area

Trees shall be felled into the sale area unless otherwise approved by the Contract Administrator.

H-050 Rub Trees

Trees designated for cutting along skid trails shall be left standing as rub trees until all timber that is tributary to the skid trail has been removed.

H-051 Branding and Painting

Purchaser shall provide a State of Washington registered log brand, acceptable to the State, unless the State agrees to furnish the brand. All purchased timber shall be branded in a manner that meets the requirements of WAC 240-15-030(2)(a)(i). All timber purchased under a contract designated as export restricted shall also be painted in a manner that meets the requirements of WAC 240-15-030(2)(a)(ii).

H-060 Skid Trail Locations

Locations of skid trails must be marked by Purchaser and approved by the Contract Administrator prior to the felling of timber.

H-080 Snags Not to be Felled

Snags not required to be felled for safety reasons may be left standing.

H-130 Hauling Schedule

The hauling of forest products will not be permitted on any roads from February 1 to June 1 unless authorized in writing by the Contract Administrator .

H-140 Special Harvest Requirements

Purchaser shall accomplish the following during the harvest operations:

- 1) Log traffic caution signs shall be placed at the beginning of the Big Coosmus Creek County Road and on the USFS 2113 road during periods of active log haul.
- 2) Harvest operations are restricted to dry or frozen conditions for Unit #1.
- 3) Purchaser's contractor shall thoroughly clean all skidding, falling, harvesting, and loading equipment prior to entry onto State land to remove contaminated soils and noxious weed seed. Equipment shall be cleaned at a location approved by the Contract Administrator.

Permission to do otherwise must be granted in writing by the Contract Administrator.

H-190 Completion of Settings

Operations begun on any setting of the sale area shall be completed before any operation begins on subsequent settings unless authorized in writing by the Contract Administrator.

H-220 Protection of Residual or Adjacent Trees

Unless otherwise specified by this contract, the Contract Administrator shall identify damaged adjacent or leave trees that shall be paid for according to clause G-230.

H-230 Tops and Limbs Outside the Sale Boundary

Tops and limbs outside the sale boundary as a result of Purchaser's operation shall be removed concurrently with the yarding operation unless otherwise directed by the Contract Administrator.

H-250 Fall Non-Merchantable Stems

Within all units, all live stems ,except western red cedar, greater than one inch in diameter, shall be felled concurrently with felling operations. Areas of young or immature timber may be excluded from this requirement by the Contract Administrator.

H-260 Fall Leaners

Non-merchantable trees that have been pushed over in falling or skidding operations shall be felled.

Section C: Construction and Maintenance**C-040 Road Plan**

Road construction and associated work provisions of the Road Plan for this sale, dated 11/28/2005 are hereby made a part of this contract.

C-050 Purchaser Road Maintenance and Repair

Purchaser shall perform work at their own cost on the E403312E, E403314E, E403314K, E403314N, E403315F, E403322H, E403322J, E403322M, E403322N, E403322O, USFS 2113, and USFS 2113-007 roads to maintain proper drainage and to keep the road surface smooth and crowned. The E403314N, E403322H, E403322J, E203322K, E403322N, and E403322O roads shall meet the original construction or reconstruction specifications at contract termination.

C-080 Landing Locations Approved Prior to Construction

Landings shall be marked by Purchaser and approved by the Contract Administrator prior to construction.

C-140 Water Bars

Purchaser shall, as directed by the Contract Administrator, construct water bars across haul roads, skid trails and fire trails as necessary to control soil erosion and water pollution.

Section S: Site Preparation and Protection**S-010 Fire Hazardous Conditions**

Purchaser agrees to use its best efforts to minimize the risk of fire.

S-030 Landing Debris Clean Up

Landing debris shall be disposed of in a manner approved in writing by the Contract Administrator.

S-060 Pump Truck or Pump Trailer

Purchaser shall provide a fully functional pump truck or pump trailer equipped to meet the specifications of WAC 332-24-005 and WAC 332-24-405 during the "closed season" or as extended by the State and shall provide trained personnel to operate this equipment on the sale area during all operating periods.

S-100 Stream Cleanout

Slash or debris which enters any stream as a result of operations under this contract and which is identified by the Contract Administrator shall be removed and deposited in a

stable position. Removal of slash or debris shall be accomplished in a manner that avoids damage to the natural stream bed and bank vegetation.

S-110 Resource Protection

No Falling or Yarding equipment may operate within the Type 4 RMZ in Unit #1 unless authority is granted in writing by the Contract Administrator.

S-120 Stream Protection

No timber shall be felled into, across, or yarded through any stream.

S-130 Refuse Disposal

a. Solid and Hazardous Waste Regulatory Compliance.

Purchaser shall meet applicable local, state, and federal solid and hazardous waste laws and regulations concerning the handling and disposal of hazardous materials and hazardous and solid waste, including, but not limited to, Chapters 70.93, 70.95, and 70.105 RCW and Resource Conservation and Recovery Act of 1976 (RCRA) 42 USC Section 6901, et seq.

b. Waste Disposal.

No hazardous or solid waste shall be disposed of by abandonment, burial, or burning on state land. All wastes, including petroleum stained soil on landings or other areas shall be removed from state land and be disposed of at a permitted solid or hazardous waste disposal facility.

c. Hazardous Materials Spill Prevention.

All operations shall be conducted in such a manner as to prevent the discharge of hazardous materials, including petroleum products, into water or air or onto ground.

Fuel tanks and other containers of hazardous materials shall be managed to prevent any drips, leaks or larger spills. Equipment seals, pressure lines, and other potential leak sources shall be maintained in good working condition to eliminate oil, hydraulic fluid, and other leaks.

Equipment maintenance activities, such as oil changes, shall be undertaken so that no oil or other hazardous materials reach the ground. Filters, batteries, and other equipment waste shall be deposited in barrels or otherwise temporarily stored to prevent the leaking of oil, acid, or other hazardous liquids onto the ground.

d. Spill Reporting.

The operator shall take immediate action to contain and control all spills.

Any spill that may be a threat to human health or the environment shall be reported immediately to the Department of Ecology and the Contract Administrator.

Other spills shall be reported to the Contract Administrator.

S-140 Fence Repair

Purchaser shall immediately repair all fence damage resulting from operations on this sale to an equal or better condition than existed at the time of sale.

Section D: Damages

D-010 Liquidated Damages

The following clauses provide for payments by Purchaser to the State for certain breaches of the terms of this contract. These payments are agreed to as liquidated damages and not as penalties. They are reasonable estimates of anticipated harm to the

State, which will be caused by Purchaser's breach. These liquidated damages provisions are agreed to by the State and Purchaser with the understanding of the difficulty of proving loss and the inconvenience or infeasibility of obtaining an adequate remedy. These liquidated damages provisions provide greater certainty for the Purchaser by allowing the Purchaser to better assess its responsibilities under the contract.

D-022 Failure to Remove Forest Products

Purchaser's failure to pay for all or part of the forest products sold in this agreement prior to the expiration of the contract term results in substantial injury to the State. The value of the forest products sold under this contract is difficult to determine at the date of breach. Purchaser's failure to perform disrupts the State's management plans, the actual cost of which is difficult to assess. A resale involves additional time and expense and is not an adequate remedy. Therefore, Purchaser agrees to pay the State as liquidated damages a sum calculated using the following formula:

$$LD = .35V - ID + C + A$$

Where:

LD = Liquidated Damage value.

V = The value is the unpaid portion of the contract bid price at the time of breach.

ID = Initial Deposit paid at date of contract that has not been applied to timber payments.

C = Charges assessed for contract requirements completed prior to breach of contract but not paid for.

A = Administrative Fee = \$2,500.00.

The above formula reflects the Purchaser's forfeiture of the initial deposit in accordance with clause P-010 by deducting the initial deposit from the amount owed. In no event shall the liquidated damages be less than zero. Interest on the liquidated damage is owed from the date of breach until final payment, calculated using the following formula: Interest = $r \times LD \times N$.

Where:

r = daily equivalent of an annual interest at current interest rate as established by WAC 332-100-030.

LD = Liquidated damage value.

N = Number of days from date of breach to date payment is received.

D-040 Leave Tree Excessive Damage

When Purchaser's operations exceed the damage limits set forth in clause H-012, Leave Tree Damage Definition, the trees damaged result in substantial injury to the State. The value of the damaged leave trees at the time of the breach is not readily ascertainable. Therefore, Purchaser agrees to pay the State as liquidated damages at the rate of \$1,000.00 per tree for all damaged trees in the unit.

IN WITNESS WHEREOF, the Parties hereto have entered into this contract.

STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES

Purchaser

John Viada
Northeast Region Manager

Date: _____
Address:

Date: _____

CORPORATE ACKNOWLEDGEMENT

STATE OF _____)
)
COUNTY OF _____)

On this _____ day of _____, 20____, before me personally
appeared _____
_____ to me known to be the
_____ of the corporation
that executed the within and foregoing instrument and acknowledged said instrument to be the
free and voluntary act and deed of the corporation, for the uses and purposes therein mentioned,
and on oath stated that (he/she was) (they were) authorized to execute said instrument and that
the seal affixed is the corporate seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and
year first above written.

Notary Public in and for the State of _____

My appointment expires _____